

REMARKS

Applicant has carefully studied the Office Action of August 26, 2004, and offers the following remarks in response thereto.

Initially, claims 14 and 19 were objected to because of alleged informalities. Specifically, the Patent Office opines that the claims have references to paragraphs a-c which were removed in the independent claim. Applicant herein amends claims 1, 2, 7, 14, 19, 21, 22, and 27, to eliminate all reference characters. Applicant requests withdrawal of the objection to claims 14 and 19 at this time.

Applicant further amends claims 1, 4-7, 16-19, 21, 22, and 24-27 to correct antecedent basis issues and to make the web page language consistent throughout the claims.

The Patent Office takes exception to Applicant's traversal of the Official Notice. MPEP § 2144.03C sets forth the way an Applicant may traverse Official Notice. Applicant explained, in the previous response, that Applicant, someone of more than ordinary skill in the art, was unaware any teaching or suggestion in the art at the time of invention that "in association with termination of the computing session, instruct[ing] the host computing device to remove records pertaining to the computing session from the host computing device to enhance privacy associated with the computing session." This statement satisfies the requirement to state why the noticed fact is not considered common knowledge or well known in the art. Specifically, if someone who is intimately familiar with an industry, by virtue of being an inventor in said industry, is not familiar with a certain proposition, then that proposition is not well known. This is sufficient to provide an adequate explanation of why the noticed fact is not considered to be common knowledge or well known. Applicant specifically requested, in the prior response, that the Patent Office substantiate its allegation that such is well known. Applicant, in the previous response, cited to MPEP § 2144.04C, which should have been MPEP § 2144.03C. Applicant apologizes for the typographical error in the previous citation, but this does not diminish the Patent Office's obligation to substantiate the assertion of Official Notice. Applicant repeats its traversal of the taking of Official Notice and respectfully requests that the Patent Office substantiate its allegations. Furthermore, as this was requested by Applicant in the previous response, Applicant requests that when the Patent Office provides such evidence to support its Official Notice, that the finality of the current Office Action be withdrawn so that Applicant may address this new evidence as appropriate.

Claims 1, 3-6, 9-13, 15-18, 21, and 23-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Leary et al. (hereinafter "O'Leary"), in view of Rallis et al. (hereinafter "Rallis"). Applicant respectfully traverses.

Applicant initially traverses the rejection because the rejection appears, in the body thereof, to rely on de la Huerga (see Office Action of August 26, 2004, page 5, last line). To the extent that the claim is not formally rejected based on de la Huerga, the rejection is not properly presented. Applicant requests clarification from the Patent Office as to what the basis for rejection is. In the event that the Patent Office meant to use de la Huerga in the rejection, then Applicant requests the finality of the Office Action be withdrawn so that Applicant may address the new rejection.

Applicant further traverses the rejection because the combination of references does not show the claimed invention unless the combination is modified. For the Patent Office to modify a combination of references, the Patent Office must articulate a motivation to modify the combination. Furthermore, the Patent Office must support the motivation to modify the combination with actual evidence. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992).

When the Patent Office combines O'Leary and Rallis, the combination results in a portable device that has security features on it according to Rallis, and a wallet on a web server according to O'Leary. Specifically, O'Leary, col. 9, lines 10-17 describes the wallet as being a thin wallet technology, wherein the majority of the software resides on the web server and the user accesses the wallet through a website. Thus, when the Patent Office combines O'Leary and Rallis, the result is a system wherein Rallis's card performs the security function to get the portable computing device (the host device of the claims) to operate, and then the thin wallet accesses the web server to access the wallet software. Thus, the memory of the body does not contain the financial account information as recited in the claim. de la Huerga does not cure this deficiency. Thus, in combination, the three references do not teach or suggest a claim element. Only if the combination is modified would the combination teach the financial information being stored on the portable device. The Patent Office has not advanced a motivation for such a modification, nor has the Patent Office supported such a motivation with the requisite actual evidence. Since the combination alone does not teach the claim element, and the Patent Office has not provided any reason to modify the combination, the combination does not establish

prima facie obviousness. Since the Patent Office has not established obviousness, the claims are allowable.

Applicant notes that each of the independent claims recites that the financial information is stored in the portable device. As such, each of the independent claims is not obvious. Since the independent claims are not obvious, the dependent claims are likewise not obvious.

Applicant requests withdrawal of the § 103 rejection of claims 1, 3-6, 9-13, 15-18, 21, and 23-26 at this time.

Claims 2, 7, 14, 19, 22, and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Leary, in view of Rallis, in view of de la Huerga, in further view of Official Notice. Applicant respectfully traverses. The standard for obviousness is set forth above.

As noted above, the combination of O'Leary, Rallis and de la Huerga does not teach or suggest storing the financial information on the portable device. The addition of the Official Notice (whether proper or not) does not cure the deficiency of the underlying combination. Since the combination of O'Leary, Rallis, de la Huerga and the Official Notice does not teach or suggest a claim element, the combination does not establish obviousness, and the claims are allowable. Applicant requests withdrawal of the § 103 rejection of claims 2, 7, 14, 19, 22, and 27 at this time.

Applicant requests reconsideration of the rejection in light of the amendments and remarks presented herein. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

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